

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 5:05-00009

DAVID BOND

MEMORANDUM OPINION AND ORDER

In Bluefield, on October 22, 2009, came the defendant, David Bond, in person and by counsel, George H. Lancaster, Jr., Assistant Federal Public Defender; came the United States by Miller A. Bushong, III, Assistant United States Attorney; and came United States Probation Officer Greg Swisher, for a hearing on the petition to revoke the defendant's term of supervised release.

The court informed the defendant of the alleged violations contained in the petition to revoke the term of supervised release, filed on August 28, 2009. The court advised the defendant that, pursuant to Rule 32.1(b) of the Federal Rules of Criminal Procedure, he has the right to a hearing and assistance of counsel before his term of supervised release could be revoked. Whereupon the defendant admitted the conduct described under violation numbers 1 and 3 as alleged in the petition. Defendant also conceded that the United States would be able to prove by a preponderance of the evidence the conduct

described as violation number 2. Whereupon, the court found the charges were established by a preponderance of the evidence.

Having heard arguments of counsel, the court found that the Guideline imprisonment range for the revocation of supervised release upon such grounds was six to twelve months. The court further found that the Guideline ranges issued by the Sentencing Commission with respect to revocation of probation and supervised release are policy statements only and are not binding on the court. Thus, the court stated that the relevant statutory provision is 18 U.S.C. § 3583(e)(3), which provides a maximum term of imprisonment of two years. Neither party objected to the Guideline range and statutory penalty as determined by the court.

The court found that there was sufficient information before the court on which to sentence defendant without updating the presentence investigation report.

After giving counsel for both parties and defendant an opportunity to speak regarding the matter of disposition, the court **ORDERED**, pursuant to the Sentencing Reform Act of 1984, that the defendant's term of supervised release be revoked, and he is to be incarcerated for a term of twelve (12) months. Upon release from imprisonment, defendant will serve a term of supervised release of twenty-four (24) months. While on supervised release, defendant shall not commit another federal, state or local crime, and shall be subject to the Standard

Conditions of Supervision adopted by the Southern District of West Virginia by its latest standing order. All previously imposed conditions of supervision remain in effect. Finally, defendant is ordered to pay the unpaid portion of his fine in the amount of \$235.

The court considered all of the findings in the case, and concluded that the sentence was sufficient, but not greater than necessary, to satisfy the statutory objectives of 18 U.S.C. § 3553 which are to protect the public, provide an adequate deterrent and reflect the seriousness of the violations committed by defendant.

The defendant was informed of his right to appeal the court's findings and the revocation of his supervised release. The defendant was further informed that in order to initiate such an appeal, a Notice of Appeal must be filed in this court within ten (10) days. The defendant was advised that if he wishes to appeal and cannot afford to hire counsel to represent him on appeal, the court will appoint counsel for him. The defendant was further advised that if he so requests, the Clerk of court will prepare and file a notice of appeal on his behalf.

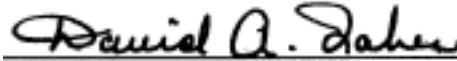
The defendant was remanded to the custody of the United States Marshals Service.

The Clerk is directed to forward a copy of this Order to counsel of record, the United States Marshal for the Southern

District of West Virginia, and the Probation Department of this court.

IT IS SO ORDERED this 22nd day of October, 2009.

ENTER:

A handwritten signature in cursive script, reading "David A. Faber", is written over a horizontal line.

David A. Faber

Senior United States District Judge